

MADISON COUNTY BOARD OF SUPERVISORS MEETING

Date: 7:00PM — Wednesday, October 6th, 2021
Location: Admin. Building Auditorium, 414 N. Main Street



At a Joint Meeting (#1) of the Board of Supervisors and the Planning Commission on Wednesday, October 6th at 7:00PM in the Admin. Building Auditorium:

PRESENT: R. Clay Jackson, Chair
Amber Foster, Member
Kevin McGhee, Member
Carty Yowell, Member
Jonathon Weakley, County Administrator
Sean Gregg, County Attorney

ABSENT: Charlotte Hoffman, Vice-Chair

The Board of Supervisors was called to order during the Planning Commission's meeting.

CALL TO ORDER, PLEDGE OF ALLEGIANCE, & MOMENT OF SILENCE

Chairman Jackson advised that a quorum was present.

DETERMINE PRESENCE OF A QUORUM/ADOPTION OF AGENDA

Supervisor Yowell made a motion to approve the agenda as presented, seconded by Supervisor Foster. **Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.**

PUBLIC COMMENT

Chairman Jackson opened the floor to public comment. With no public comment being brought forth, the public comment session was closed.

PUBLIC HEARINGS

- A. **Case No. S-10-21-13:** Marvin Jenkins and Andrew Gayheart have submitted a subdivision plat/survey to subdivide three (3) existing A1 (agriculture) zoned parcels. These parcels are identified on Madison County's Tax Maps as 33-53, 33-54 and 33-55, and are roughly 49 acres, 8.4 acres and 12 acres respectively. Parcel 33-54 is located on James City Road (Rt. 612) and contains a dwelling with a postal address of 1460 James City Road, parcel 33-53 is located on James City Road and Hoover Road (Rt. 609), parcel 33-54 is located on Hoover Road; and measured from the edge of Hoover Road, roughly 195 feet of parcels 33- 53 and 33-55 are located in Culpeper County. Each parcel is proposed to be subdivided to create three (3) "new" parcels and a residue parcel. The subdivision would create (9) new parcels and three (3) residue parcels, for a total to twelve (12) parcels. As required in the A1 zoning district all parcels meet the minimum lot size of three (3) acres.

Chairman Jackson opened the floor to public comment on Case No. S-10-21-13. With no public comment being brought forth, the public comment session was closed.

Supervisor Yowell made a motion to approve Case No. S-10-21-13 as recommended by the Planning Commission, seconded by Supervisor Foster. *Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.*

PUBLIC COMMENT

Chairman Jackson opened the floor to public comment. With no public comment being brought forth, the public comment session was closed.

DISCUSSION

A. Brief and Seasonal Activities” (Article 14-4 of the Zoning Ordinance) and Temporary Events Ordinance (Large-Scale, Outdoor Events)

Peter Work spoke briefly on the history of the ordinance and the process by which amendments and alterations have been made. In addition, he updated the Board and Planning Commission on the amendment constructed by the Business Committee regarding the selling of agricultural products.

Faye Utz asked if someone with less than a 3-acre lot would be allowed to have anything under this ordinance’s rules.

Mike Mosko responded that, as the way the ordinance is written, those on less than 3 acres would not be allowed to have any event under the ordinance.

Faye Utz then asked about the requirement that events be conducted on “no more than two consecutive days and no more than a cumulative eight total days in any calendar year” and questioned the difference between businesses and private events. She also asked who would be counting the number of attendees for events.

To her second question, the County Planner responded that, unless the event was being a nuisance, no one would be rigorously checking the exact number of attendees for every event.

Pete Elliot asked if the fair, tractor pulls, and demolition derbies would be classified under this ordinance—said that it’s not hard for an event to get 300 people.

Mike Mosko replied that it was his belief that events that exceeded the parameters in the ordinance, they would file under the Large-Scale Event application instead.

The County Planner responded that things like the fair and political events would be exempted from the current ordinance.

Francoise Seillier-Moisewitsch asked if the agricultural product needs to be grown on the property where the event is happening.

Peter Work responded that Francoise's winery would not be affected.

Mike Mosko responded that, as long as the business was in compliance with 16.2-228.8 then there was no issue.

Francoise Seillier-Moisewitsch also asked if weddings were exempted.

Peter Work responded that it was his belief that anything that was conducted by the winery would be exempted.

Gracie Hart Brooks stated that the State of Virginia does not recognize weddings as a form of agricultural event, and thus would not be exempted.

The County Attorney agreed that weddings are not an agricultural use and would not be exempted.

- *Supervisor Yowell: Asked if weddings would fall under the special use provision where they could be held 8 times per year.*

The County Attorney responded that Supervisor Yowell was correct.

Pete Elliot again stated his issue with the amount of people allowed at events because he believed that 600 attendees was too small a number.

Faye Utz asked for an event to be named that would fall under this ordinance.

- *Supervisor Yowell: Responded to Ms. Utz by saying that, under residential limited R1, wayside stands and rooming or boarding houses would fall under the ordinance. The temporary and seasonal provision would allow someone to hold the event 8 times a year before needing to acquire a special use permit.*
- *Chairman Jackson: Reiterated that, under this ordinance, someone would not need a special use permit as long as the event was less than 8 days long and did not meet the 600 person threshold.*

Stephan Carpenter stated that the Brief Activity Ordinance was meant to fill a need for something smaller than the Large-Scale Event ordinance which is meant to handle things larger than the Brief and Seasonal Ordinance.

- *Chairman Jackson: Stated that the 600-person limit was not all that important and the intent of the measure was to give personal property rights rather than serving as a loophole for people to use. Suggested that the cap be removed.*

The County Planner stated that the ordinance would not affect the daily operations of breweries and wineries and would only be involved with events they hold.

Faye Utz asked again who would be counting the number of attendees.

- *Supervisor Jackson: Responded that no one would be counting unless the event was a nuisance.*

Nan Coppedge said that the whole purpose of the ordinance was public safety.

Peter Work stated that a lot of enforcement was not viable under the County's current staffing. On the matter of the Large-Scale Outdoor events ordinance, Mr. Work stated that the only real change was that, for events with 750 or more daily attendees, the zoning administrator would refer the matter to the Board of Supervisors.

Stephan Carpenter stated that he thought it would be better to have the 750 or more daily attendees addition as a standalone sentence rather than having it tacked on to 4-26(B).

Pete Elliot questioned if state police and federal law-enforcement would really need to be notified under the ordinance.

Peter Work said the language was recommended by the County Attorney.

Pete Elliot asked if the Zoning Office was responsible for notifying parties or if it was the applicant's responsibility.

Peter Work responded that the application would handle what Mr. Elliot was referring to.

- *Chairman Jackson: Asked Chairman Mosko why the public hearing was set for December instead of November.*

Mike Mosko responded that a change to November could be made.

The County Planner stated that the ordinance might want to be a bit clearer in the exclusions list in regards to events like the County Fair, school events, and political events.

- *Chairman Jackson: Asked if they could get the changes to the Planning Commission's workshop and still hold the public hearing in November.*

The County Administrator asked for clarification on the dates to make sure adequate time was allotted for advertising on the public hearing.

The County Planner responded that he would have to send the advertisement out by the end of the following week for the public hearing to take place in November.

Gracie Hart Brooks asked if business entities such as Graves' were required to get the permitting being discussed or if they were excluded altogether.

The County Attorney stated that Graves' would be classified as a full-time business entity.

Peter Work explained that the intent behind the exclusion was to not have these businesses coming in with applications for every event they were planning to hold.

- *Chairman Jackson: Reiterated that the ordinance was meant to protect public safety and that full-time business entities does not work in the proposed ordinance.*

Peter Work asked if the Board wanted Graves' to apply for every event they hold. Also brought up that Plow & Hearth did not have a special use permit for their activities on Route 29.

- *Chairman Jackson: Stated that Plow & Hearth's activities were grandfathered in because they were conducting their events before the changes to the currently on-the-books ordinance had been set.*

The County Administrator asked if the County Planner was still tracking for a public hearing in November.

The County Planner responded that he was.

Barbara Miller asked if a wedding with 300 people would need to be run by the County first considering that her business has a special use permit.

The County Attorney responded that the Special Use Permit would take precedence over the ordinance in Ms. Miller's case.

Mike Mosko responded that it was his opinion that, in regards to safety for events, the relevant parties such as the sheriff and fire department would need to be notified through the process laid out in the ordinance.

Barbara Miller stated that she saw a difference in notification versus filing for a permit. Also asked if tents purchased by her business would need to be inspected before each event.

- *Chairman Jackson: Stated that tents fall under State building code and they must be inspected.*

Pete Elliot asked the County Planner if tents put up and left up would need to be inspected continuously.

- *Chairman Jackson: Stated that he believed tents would need to be inspected when they went up. Also stated that notification needed to be sent for large-scale events.*

Peter Work suggested that a simple notice requirement should be added for excluded entities.

- *Chairman Jackson: Asked the County Attorney if a notice requirement for special use permit holders could be added.*

The County Attorney responded that he believed it was permissible.

Faye Utz asked if non-profits could also be added to the exclusions list.

The County Attorney responded that adding non-profits could raise problems in the future.

- *Chairman Jackson: Stated that the Board was very happy that Barbara Miller's event went well.*

Stefan Carpenter brought up the need for organizing the forms and asked that forms be numbered in the future.

B. Potential Amendments to the Commercial Solar Energy Facilities Ordinance (Article 14-19-3, Paragraph B. 2. & 4. of the Zoning Ordinance)

Faye Utz stated that the change from a 300ft setback to a 100ft setback would allow the County to have more options as far as special use permits are concerned.

- *Supervisor Jackson: Asked why the vegetative buffer would be set inside of the fence.*

Faye Utz responded that it should read as the vegetative buffer being on the outside of the fence.

Mike Mosko added that more declarative language was added to the ordinance in that instances of "May" were replaced with "Shall".

Stephan Carpenter stated that he believed more declarative language was needed on the fencing being placed inside the buffer.

Mike Mosko also brought up a suggested change to paragraph two regarding the setback requirement of no less than 100ft and no more than 300ft.

Faye Utz responded that the suggestion was there before but that it was not particularly relevant because the special use permit could handle the issue.

Nathan Cowan stated that it was his opinion that the way in was written was good as it set expectations.

- *Chairman Jackson: Stated that it was his opinion to set the maximum setback as being discretionary for the County to set rather than having the max set at 300ft.*

Mr. Nicholls: Stated that the comprehensive plan said to "minimize encroachment of development on residential neighborhoods, establish communities . . ." and that by reducing the

setbacks, they were violating the comprehensive plan. Also said the statement of intent said that the district will not adversely impact any contiguous district. Stated that it was his belief that the Planning Commission was viewing things through the lens of the applicant—the purpose of the setbacks was to protect neighbors rather than dealing with what the applicant wants to do. Said he still had liability concerns regarding trees from the surrounding areas falling onto the solar farm's property. Also brought up the hazardous materials contained within the photovoltaic panels and how they could damage the surrounding creeks. Stated that Mr. Elliot's claim that there was no intention to build photovoltaic cells at the southeastern portion of the property wasn't entirely accurate as the company wanted to build the cells as close as they could.

Mike Mosko stated that there was nothing the County could do as far as residents planting trees on their property. Also stated that the company would have to explain what the panels are made of and the hazardous materials contained within. If the Board wished, they could reject the application based on the materials if they conflicted with the ordinance.

Pete Elliot said that he wasn't looking at the application as approving something for one person, but for the whole County.

Nathan Cowan said that the current application was a good case study and that there was a need to protect landowners and the right that people have for the land that they own.

Mr. Nicholls responded that the current issue wasn't dealing with the rights as they currently stand as the zoning change has not been made.

Mike Mosko brought up that the Planning Commission had received new County emails and asked everyone to start the process of using them. Also recommended that everyone review the planning commission by-laws; specifically, Article 6, Paragraph 6-10 regarding virtual attendance for meetings.

PUBLIC COMMENT

CLOSED SESSION

On motion of Supervisor Yowell, seconded by Supervisor Foster, the Board convened in a closed session pursuant to Virginia Code sections:

- A. 2.2-3711(A)(6) for discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected;
- B. 2.2-3711(A)(1) for discussion, consideration, or interviews of prospective candidates for employment

Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.

Supervisor Yowell made a motion to re-convene in open session, seconded by Supervisor McGhee. *Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.*

Supervisor Yowell moved to certify by roll-call vote that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code sections 2.2-3711(A)(6) and 2.2-3711(A)(1) and only matters that were identified in the motion to convene in closed session were heard, discussed, or considered in the closed meeting, seconded by Supervisor Foster.

Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.

Per the closed session, the Board took the following actions:

Supervisor McGhee made a motion to authorize the County Administrator to create a fulltime position from two part time positions at the County Animal Shelter. *Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.*

Supervisor Yowell made a motion to authorize the County Administrator to execute the search firm agreement with Fahrenheit and not to exceed \$30,000 on recruiting for the position of Finance Director, seconded by Supervisor McGhee. *Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.*

ADJOURN

With no further action being required, on motion of Supervisor Foster, seconded by Supervisor McGhee, the meeting was adjourned.

Aye: Jackson, Foster, McGhee, Yowell. Nay: (0). Absent: Hoffman.